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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/485,377	04/24/2000	KLAUS SOMMERMEYER	6-1037-001	1845

803 7590 09/27/2004

STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES, IA 50309-4076

EXAMINER

MAIER, LEIGH C

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/485,377

Applicant(s)

SOMMERMEYER ET AL.

Examiner

Leigh C. Maier

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Status of the Claims

Claims 1-5, 9, 14, 16-19, and 22 have been amended. Claims 1-22 are pending.

Any objection or rejection not expressly repeated has been withdrawn.

An amendment to the specification has been submitted. This amendment is not in proper form. It is important that the submission be in the prescribed form to assure proper scanning. Please see MPEP 714 (II).

Claim Rejections - 35 USC § 103

Claims 1-8 and 10-22 are again rejected under 35 U.S.C. 103(a) as being unpatentable over SOMMERMEYER et al (US 5,218,108) in combination with KOMAI et al (US 3,446,664), as set forth in the previous Office action.

Applicant's arguments filed July 12, 2004 have been fully considered but they are not persuasive.

Applicant contends that SOMMEMEYER teaches "only one batch hydrolysis step in solution." The examiner maintains that the claims fail to distinguish between "main hydrolysis" and "fine hydrolysis," so that they can fairly be interpreted as "some hydrolysis" and "some more hydrolysis." Therefore, if the SOMMEMEYER process were to proceed for two hours, the first hour could be termed the "main hydrolysis" and the second, the "fine hydrolysis."

Applicant argues that the present process allows for the precise adjustment for molecular weight, while the references are silent regarding molecular weight distribution.

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However, there is no molecular weight, *per se*, or molecular weight distribution limitation(s) in the claims. Neither does the specification disclose any unexpected results regarding molecular weight distribution.

Finally, Applicant notes that the instant process differs from KOMAI in the flow speed of the reactor, and that “it is essential that one horizontal layer does not mix with the one above or below,” citing the specification. Some particular flow rate may be essential to the invention, but it is not a claim limitation. The KOMAI process teaches flow against gravity without mixing, as required by the claims.

Claims 1, 2, 4-7, 9-15, 17, and 19-22 are again rejected under 35 U.S.C. 103(a) as being unpatentable over SOMMERMEYER et al (US 5,218,108) in combination with KOMAI et al (US 3,446,664) in view of SMOLKA et al (US 4,562,086), as set forth in the previous Office action.

Applicant’s arguments filed July 12, 2004 have been fully considered but they are not persuasive.

Applicant states “SMOLKA only suggests that the batch [etherification] process disclosed also can be conducted continuously but does not explain that continuous process.” However, neither does the present specification. Therefore, this appears to be an acknowledgement that at the time the invention was made it would be within the scope of the artisan to modify the disclosed batch process to a continuous one.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Examiner's hours, phone & fax numbers

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh Maier whose telephone number is (571) 272-0656. The examiner can normally be reached one Tuesday, Wednesday, and Friday 7:00 to 3:30 (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson (571) 272-0661, may be contacted. The fax number for Group 1600, Art Unit 1623 is (703) 872-9306.

Visit the U.S. PTO's site on the World Wide Web at <http://www.uspto.gov>. This site contains lots of valuable information including the latest PTO fees, downloadable forms, basic search capabilities and much more.

Leigh C. Maier
Patent Examiner
September 21, 2004


SAMUEL BARTS
PRIMARY EXAMINER
GROUP 1600